News Release

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Labor Department Settles With Bay Area Pension Plan Managers To Restore Funds to Plan

SAN FRANCISCO – The former executives of two defunct California companies, Rapid Micro, Inc. of Castro Valley, and its successor, Network Guardians, Inc. of Hayward, entered into a settlement agreement and consent decree with the U.S. Department of Labor on July 23 admitting liability and agreeing to restore more than $22,500 to the Network Guardians, Inc. SAR-SEP pension plan.

Under the terms of the settlement, Mark R. Koike and Rosemary Chan will restore the assets to the plan and be permanently barred from serving as fiduciaries of any employee benefit plan covered by the Employee Retirement Income Security Act (ERISA).

The department's lawsuit, filed Sept. 12, 2002 in federal district court in San Francisco, alleged that beginning in 1996, Koike and Chan, former presidents of Rapid Micro and Network Guardians, respectively, failed to timely forward employee contributions to the participants' plan accounts. The defendants also allegedly commingled employee contributions with corporate assets and used the plan's assets to benefit those companies.

"This is a good example of our efforts to protect the hard-earned benefits of American workers, even if the plan has only a few participants. Every retirement plan subject to ERISA is important," said Bette Briggs, director of the department's San Francisco regional office of the Employee Benefits Security Administration (EBSA), which investigated the alleged violations of ERISA.

Rapid Micro, the original sponsor of the pension plan, ceased operating in June 1997. Rapid Micro's successor, Network Guardians, which ceased operations on June 14, 1999, became the sponsor of the plan on Oct. 1, 1997. The SAR-SEP is an ERISA-covered plan that covered 13 participants employed by the companies.

Briggs noted that employers with similar problems, who are not yet the subject of an investigation by EBSA, may be eligible to participate in the department's Voluntary Fiduciary Correction Program (VFCP). Participation in the VFCP requires employers to make workers whole, but allows them to avoid EBSA enforcement actions and civil penalties, as well as excise taxes.

"The VFCP gives plan sponsors a way to come into compliance with ERISA by restoring workers' benefits while avoiding an investigation by EBSA," said Briggs. "It protects workers' health and retirement benefits and allows us to focus our resources on those who seek to avoid compliance."

For more information about the VFCP see www.dol.gov/ebsa. Employers and workers can contact the San Francisco Regional Office at (415) 975-4600 or EBSA's toll free number, 1-866-444-3272, for help with problems relating to private-sector pension and health plans.

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(Chao v. Mark R. Koike) Civil Action No C-02-4447 JSW